

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**THE OHIO STATE UNIVERSITY** :  
103 Bricker Hall :  
190 North Oval Mall :  
Columbus, Ohio 43210 :  
:  
**Plaintiff,** :

v. :

**MAPLE STREET PRESS LLC** :  
8 Morton Rd. :  
Scituate, MA 02066 :

**Also serve:** :

**MAPLE STREET PRESS LLC** :  
155 Webster Street, Ste. B :  
Hanover, MA 02339 :

**Defendant.** :

**Case No.** \_\_\_\_\_

**Judge** \_\_\_\_\_

**COMPLAINT FOR TRADEMARK INFRINGEMENT, UNFAIR COMPETITION AND  
PASSING OFF**

Plaintiff The Ohio State University ("Ohio State"), for its complaint against defendant Maple Street Press LLC ("Maple Street" or "Defendant"), states as follows:

**Nature of the Case**

1. This is an action for trademark infringement, unfair competition and passing off under the Lanham Act, 15 U.S.C. § 1114 and § 1125(a), relating to the unlawful appropriation of Ohio State’s registered and common law trademarks, and unfair competition and passing off by Defendant in print publications.

2. Plaintiff Ohio State is a public institution of higher learning located in Columbus, Ohio that is engaged in providing college level educational courses and college sport exhibition events and recreation programs, dramatical and musical entertainment events.

3. Upon information and belief, Defendant Maple Street is a Massachusetts Limited Liability Company, with a principal office listed as 8 Morton Road, Scituate, MA 02066.

4. Upon information and belief, Defendant Maple Street was organized as a Massachusetts LLC on November 17, 2005.

5. This court has jurisdiction over this matter under 15 U.S.C. § 1125 and 28 U.S.C. § 1338. Venue is proper in this Court under 28 U.S.C. § 1391(b), as Ohio State's cause of action arose and Ohio State is being injured in this judicial district, and because Defendants have purposefully availed themselves of the privilege of doing business in this forum.

### **The Ohio State "Buckeye" Trademarks**

6. Established in 1870, The Ohio State University has developed into one of the most well-respected institutions of higher learning in the country.

7. For more than 140 years Ohio State has been actively engaged in providing college level educational courses and college sport exhibition events and recreation programs, dramatic and musical entertainment events. Ohio State operates its own athletics website and has sold game day athletics programs for more than 100 years. Ohio State also licenses and markets various products and services, including publications, clothing, and other merchandise using Ohio State's trademarks.

8. In connection with the activities and products described in the preceding paragraphs, Ohio State is the owner of, among others, the following federally registered trademarks:

- a. "BUCKEYES" — registration number 1,152,683, registered April 28, 1981, to provide college sport exhibition events and recreation programs;
- b. "BUCKEYES" — registration number 1,267,035, registered on February 14, 1984 for use on: toy stuffed animals, Christmas decorations, bean bags, plastic toys, foam toys and equipment sold as a unit for playing a stick ball game; clothing-namely, T-shirts, ties, scarves, bibs, sweatshirts, athletic shorts, hats, aprons, jogging suits and sweaters; blankets, textile placemats, handkerchiefs, quilts and pennants; tumblers, cups, mugs, glasses and insulated beverage container holders; hassocks, bean bag leisure furniture, letter holding boxes, mirrors, and folding seats for use by individuals in athletic stadiums and plaques; tote bags; pens, posters, decals, and paintings; jewelry-namely, rings, pins, belt buckles and key chains, all being made of precious metal; electric lamps; providing college level educational programs, sport exhibition events and recreation programs;
- c. BUCKEYE DESIGN — registration number 2,437,954, registered January 2, 2001 for use on decals and stickers;
- d. "OHIO STATE" — registration number 1,294,114, registered September 11, 1984 for providing college level educational programs, sport exhibition events, recreation programs, toy stuffed animals, Christmas decorations, bean bags, plastic figurine toys, foam figurine toys, bats, balls and other equipment sold as a unit for playing a stick ball game, shoe laces, t-shirts, ties, scarves, bibs, sweatshirts, shorts, hats, aprons, jogging suits, sweaters, blankets, pennants, textile placemats, handkerchiefs, quilts, tumblers, cups, mugs, glasses, beverage container insulators, hassocks, bean bag leisure furniture, mirrors, and folding seats for use by individuals in athletic stadiums, tote bags, pens, posters, decals, paintings, letter holding boxes, rings, pins, belt buckles, key chains and electric lamps;
- e. "OHIO STATE" — registration number 1,152,682, registered April 28, 1981 for college sport exhibition events and recreation programs, dramatical and musical entertainment events and college level educational courses;
- f. "OSU" — registration number 1,121,595, registered July 3, 1979 for college sport exhibition events and recreation programs, dramatical and musical entertainment events and college level educational courses;
- g. "OHIO STATE UNIVERSITY" — registration number 1,294,115, registered September 11, 1984 for jewelry-namely, rings, pins, belt buckles and key chains; pens, posters, decals, paintings, letter holding boxes; hassocks, bean bag leisure furniture, plaques, mirrors and folding seats for use by individuals in athletic stadiums; tumblers, cups, mugs, glasses and beverage container insulators; blankets, pennants, textile placemats, handkerchiefs and quilts; clothing-namely, t-shirts, ties, scarves, bibs, sweatshirts, shorts, hats, aprons, jogging suits and

sweaters; toy stuffed animals, Christmas decorations, bean bags, plastic figurine toys, foam figurine toys, and equipment—namely, bats and balls sold as a unit for playing a stick ball game; and : providing college level educational programs, sport exhibition events and recreation programs;

- h. “O” – registration number 2,689,612, registered February 25, 2003 for clothing, namely, jackets, sweaters, hats and T-shirts.

9. Copies of the certificates of registration for each of these trademarks are attached to this complaint as Exhibits A through H, respectively.

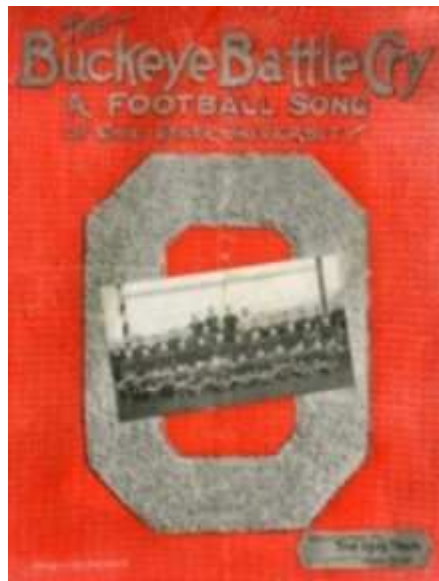
10. The certificates of registration identified in the preceding paragraph are valid and subsisting, and Ohio State has record title in the trademarks described above.

11. The certificates of registration are prima facie evidence of the validity of the registered trademarks, Ohio State's ownership of the registered trademarks, and Ohio State's exclusive right to use the registered trademarks in connection with the goods and services specified in the certificates of registration enumerated above. All of the registered marks are incontestable, which provides conclusive evidence of their validity under 15 U.S.C. § 1115(b), and constructive notice of the registrant's claim of ownership under 15 U.S.C. § 1072.

12. In connection with the promotion of its various academic, athletic, entertainment and philanthropic activities, and in association with its registered and common law trademarks, many of which include the term “Buckeyes”, Ohio State has historically used the term “Buckeyes” to refer to and describe various individuals, teams, school songs and organizations affiliated with Ohio State, including use of the school fight song *Buckeye Battle Cry* since 1919 and adoption of “Brutus Buckeye” as the official Ohio State mascot in 1965.

13. *Buckeye Battle Cry* was composed by vaudeville performer and songwriter Frank Crumit in 1919, as an entry in a contest to create a new Ohio State fight song in conjunction with

the upcoming construction of Ohio Stadium. Below is a copy of the cover of the original sheet music from 1919 for *Buckeye Battle Cry*:



14. Since the 1930's, every football game in Ohio Stadium begins with The Ohio State University Marching Band entering the ramp to Ohio Stadium performing *Buckeye Battle Cry* after it forms the famous Script Ohio. The tradition ends with the singing of one chorus of the fight song by band members. The song is also played after every time the Buckeyes score. Videos of The Ohio State University Marching Band entering Ohio Stadium, forming Script Ohio and performing *Buckeye Battle Cry* are available on YouTube. A copy of a portion of the booklet "Script Ohio – 100 Years of The Ohio State University March Band", that describes the Band's longstanding use of *Buckeye Battle Cry* is attached hereto as Exhibit I.

### **Buckeye Battle Cry**

**In old Ohio (Columbus) there's a team,  
That's known thru-out the land;  
Eleven warriors, brave and bold,  
Whose fame will ever stand,  
And when the ball goes over,  
Our cheers will reach the sky,  
Ohio Field will hear again  
The Buckeye Battle Cry.  
Chorus**

**Drive! Drive on down the field;  
Men of the scarlet and gray;  
Don't let them thru that line,  
We've got to win this game today,  
Come on, Ohio!  
Smash thru to victory,  
We'll cheer you as you go;  
Our honor defend  
So we'll fight to the end  
For Ohio.**



Copies of the sheet music for *Buckeye Battle Cry* are attached hereto as Exhibit J.

15. By virtue of its 90+ years as the Ohio State fight song, and its prominent use during Ohio State athletic events, and particularly football games, Ohio State live band concerts and sale of CD's titled "Buckeye Battle Cry," the public now associates the name "Buckeye Battle Cry" solely as indicating origin in Ohio State and its athletic and band programs.

16. In connection with the promotion of its various academic, athletic, entertainment and philanthropic activities, Ohio State has also historically used, as a trademark, the Block O with Buckeye Leaves:



17. Ohio State's use of the Block O with Buckeye Leaves trademark has been continuous since 1973 and the public now associates the Block O with Buckeye Leaves trademarks solely as indicating origin in Ohio State.

18. Ohio State has used the registered trademarks and the common law trademarks described above (collectively the "Ohio State Trademarks") continuously and exclusively for identification with Ohio State and its academic, athletic and entertainment activities. The Ohio State Trademarks and their respective reputation and goodwill have continuously grown and are now well known throughout the City of Columbus, the State of Ohio and the United States.

19. Ohio State's athletic teams and students have been known as "Buckeyes" since at least as early as 1920. Due to the long, extensive and continuous use of the term "Buckeye" in association with Ohio State teams, programs, and events, consumers now associate the term Buckeye with Ohio State. When used in connection with Ohio State athletics the term "Buckeye," as well as the other Ohio State Trademarks are strong and readily accepted by the public as hallmarks of Ohio State athletics.

20. Ohio State licenses and markets many items using the trademarks "Buckeye," "Buckeyes," "Brutus Buckeye," Block O, Block O with Buckeye Leaves, "Go Bucks", the

Athletic Logo and the decal "Buckeye Leaf," which have been placed on the helmets of Ohio State football players for making an excellent play for more than 40 years.



21. Ohio State's academic and athletic programs rank among the best in the nation. Ohio State's undergraduate program and graduate programs for law, medicine, business, engineering and education are all currently ranked among the top 40 schools in the nation in their respective areas by U.S. News & World Report.

22. Ohio State alumni have an affinity for Ohio State that runs deep and these Buckeyes can be found in every corner of the country. There are approximately 464,000 Ohio State alumni located in virtually every country throughout the world. When consumers throughout the nation (or world) hear the word "Buckeye" in connection college athletics, hear the words *Buckeye Battle Cry* or the fight song, or see the words "Buckeye Battle Cry", they immediately associate that phrase as indicating origin with Ohio State and its athletic teams and band.

23. In 2002, the Ohio State football team, the Buckeyes, won the NCAA football championship. This was the seventh national football championship for the Buckeyes. Only five other programs, in the history of collegiate football, have amassed more than seven national championships.



24. In the 2006 — 2007 athletic year, Ohio State Buckeye teams appeared in both the NCAA Football National Championship and the NCAA Final Four and championship basketball games. This success again cemented the presence of the Ohio State marks on a national stage, making goods bearing the Ohio State marks even more sought after and desired. Not surprisingly, 2006 — 2007 was a record year for licensing revenue for Ohio State, which was in excess of nine (9) million dollars.

25. In 2008, the Buckeyes again played for the national championship of college football in the BCS National Championship Game. In 2009, the Buckeyes played in the BCS-Fiesta Bowl, and in January 2010, the Buckeyes defeated Oregon in the BCS Rose Bowl. The Buckeyes are currently ranked Number 2 in the country.

26. As a result of Ohio State's fame and its extensive use, advertising, and sale of goods and performance of athletic services bearing the Ohio State Trademarks, the Ohio State Trademarks have acquired strong secondary meaning, have achieved favorable national recognition, and have become assets of significant value as symbols pointing only to Ohio State, its services, products and goodwill.

27. Ohio State approves and maintains quality control over all of the products and services it licenses and produces, the goods and services bearing its marks, and its trade dress to protect the tradition, prestige and goodwill associated with these marks, and Ohio State makes systematic efforts to safeguard the quality and integrity of the Ohio State marks, and the public assumes that Ohio State has approved, sponsored or endorsed all products and services bearing its trademarks.

28. For more than thirty (30) years, Ohio State has both used and licensed third parties to use the Ohio State Trademarks on various items and services, including clothing of all

types, food products, restaurant services, internet websites, screen savers, athletic uniforms, calendars, novelties, books, household goods, toys, sporting goods, music, home furnishings, glassware, collectibles, pens and watches.

29. Ohio State's licensing program has become the most profitable collegiate licensing program in the United States in the past five (5) years, generating royalties of more than \$35 million. The past success of Ohio State's academic and athletic programs has resulted in extensive exposure of Ohio State's trademarks to a national audience and has created a large demand for products and services bearing Ohio State's trademarks throughout the United States.

30. In fact, Ohio State currently has approximately 500 authorized licensees for products using the Ohio State Trademarks on all types of clothing products, including shirts, food products and services, such as ice cream, breakfast cereals, popcorn snacks, pretzel snacks, tortilla chips, cinnamon cracker snacks, gourmet candies, hot dogs, cafés and restaurants, to computer equipment, such as screen savers, mouse pads, and wrist rests, hats, flags and banners.

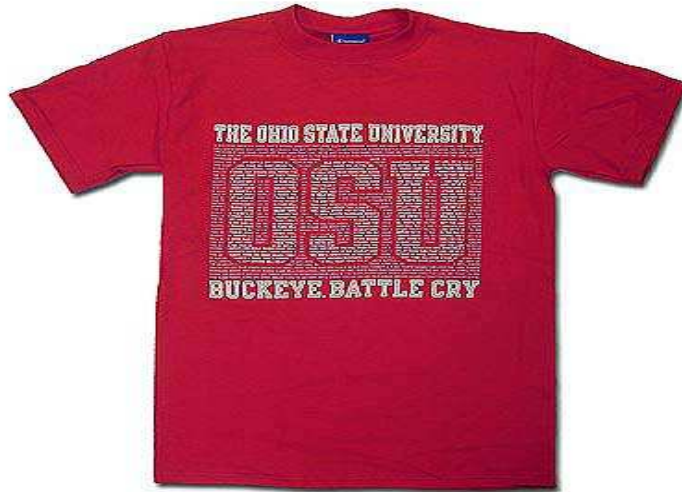
31. Ohio State also licenses the sale of DVDs of important and memorable Ohio State athletic contests, which are a significant source of royalty income. For example, in 2003, more than 150,000 copies of a licensed DVD of the 2003 Fiesta Bowl were sold. The Ohio State University Marching Band, referred to as TBDBITL, performs *Buckeye Battle Cry* at concerts and public appearances throughout the year. *Buckeye Battle Cry* has been recorded many times by The Ohio State University Marching Band and is the title of a recording of The Ohio State Marching Band's greatest hits released in the 1970's (which includes *Buckeye Battle Cry*), and is still being sold to this day.



*Buckeye Battle Cry* is available for download as an mp3 file and as a mobile phone ring tone. Numerous licensed products have made use of *Buckeye Battle Cry*, including figurines and even a musical mobile that plays “the Ohio State fight song converted into a soothing, easily recognizable tune appropriate for a baby’s crib.”

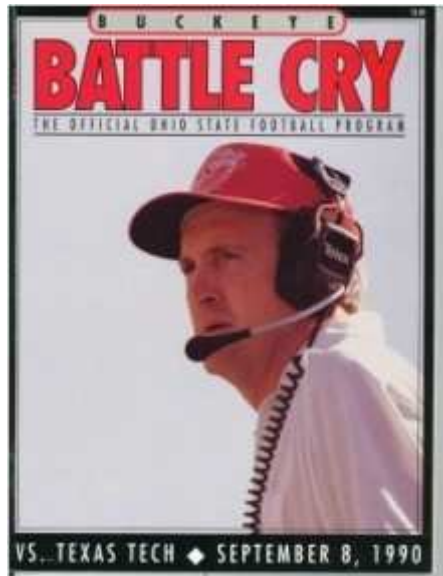


32. Ohio State has licensed many other musical products in the past that play *Buckeye Battle Cry* and currently licenses a shirt which bears the trademark “Buckeye Battle Cry” and includes the words to the song as part of the pattern on the shirt.



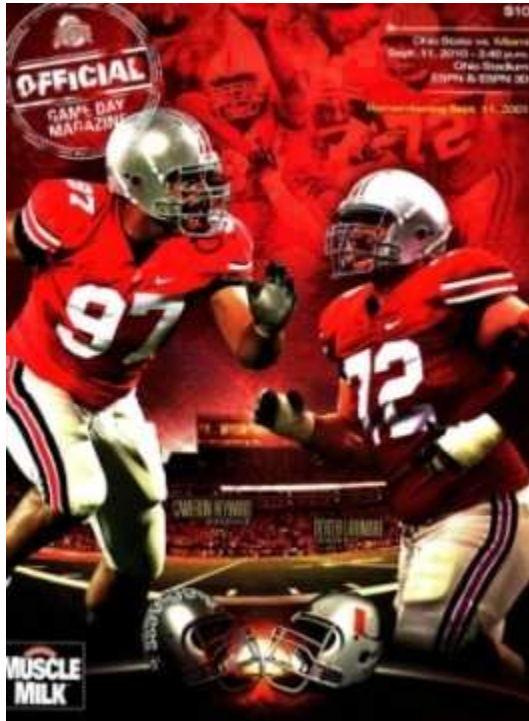
33. Ohio State's use of the words "Buckeye", "Buckeyes" and "Buckeye Battle Cry" in connection with its trademarks and various activities has been continuous and the public now associates the words "Buckeye", "Buckeyes" and "Buckeye Battle Cry" when used in conjunction with athletics and musical services and many products to be affiliated with Ohio State.

34. For at least 100 years, and continuing today, Ohio State also publishes, sells, and distributes print copies of athletics magazines and programs for Ohio State athletics teams and events, and in the 1990's, the Ohio State football program was actually called "Buckeye Battle Cry":



Examples of print Ohio State football programs dating from 1902 to the present are attached hereto as Exhibits K. Additional examples of covers from “Buckeye Battle Cry” Ohio State football programs are attached hereto as Exhibit L.

35. Ohio State’s current football program publication, its Official Gameday Magazine, is nearly 150 pages and includes extensive information on the Ohio State coaches, the team roster, statistics and season schedule, information on the opposing team, including team rosters and statistics, feature articles on Ohio State players, articles about Ohio State players currently in the NFL and in the Pro Football Hall of Fame, and articles about Ohio State traditions. The lyrics to *Buckeye Battle Cry* appear on page 45. Examples of the content appearing in Ohio State’s Official Gameday Magazine are below:



2009 BUCKEYES				2008 BUCKEYES			
Rank	Points	Yards	TDs	Rank	Points	Yards	TDs
1	44	4,400	44	1	44	4,400	44
2	38	3,800	38	2	38	3,800	38
3	32	3,200	32	3	32	3,200	32
4	26	2,600	26	4	26	2,600	26
5	20	2,000	20	5	20	2,000	20
6	14	1,400	14	6	14	1,400	14
7	8	800	8	7	8	800	8
8	2	200	2	8	2	200	2

**NUMBERS...**

Year	Points	Yards	TDs
1997	44	4,400	44
1998	38	3,800	38
1999	32	3,200	32
2000	26	2,600	26
2001	20	2,000	20
2002	14	1,400	14
2003	8	800	8
2004	2	200	2

**SCHEDULES**

**2009 BUCKEYES**

**2008 BUCKEYES**

**2007 BUCKEYES**

**2006 BUCKEYES**

**2005 BUCKEYES**

**2004 BUCKEYES**

**2003 BUCKEYES**

**2002 BUCKEYES**

**2001 BUCKEYES**

**2000 BUCKEYES**

**1999 BUCKEYES**

**1998 BUCKEYES**

**1997 BUCKEYES**

36. Since 1997, Ohio State has published [www.ohiostatebuckeyes.com](http://www.ohiostatebuckeyes.com), which is “The Official Website of Ohio State University Athletics,” and features the Ohio State Trademarks throughout.

37. A true and accurate copy of the front/main page of the website [www.ohiostatebuckeyes.com](http://www.ohiostatebuckeyes.com) as of October 1, 2010 is attached hereto as Exhibit M.

38. Until 2009 Ohio State published and sold a printed media guide for its football program which was filled with stories, statistics and other materials about Ohio State football.

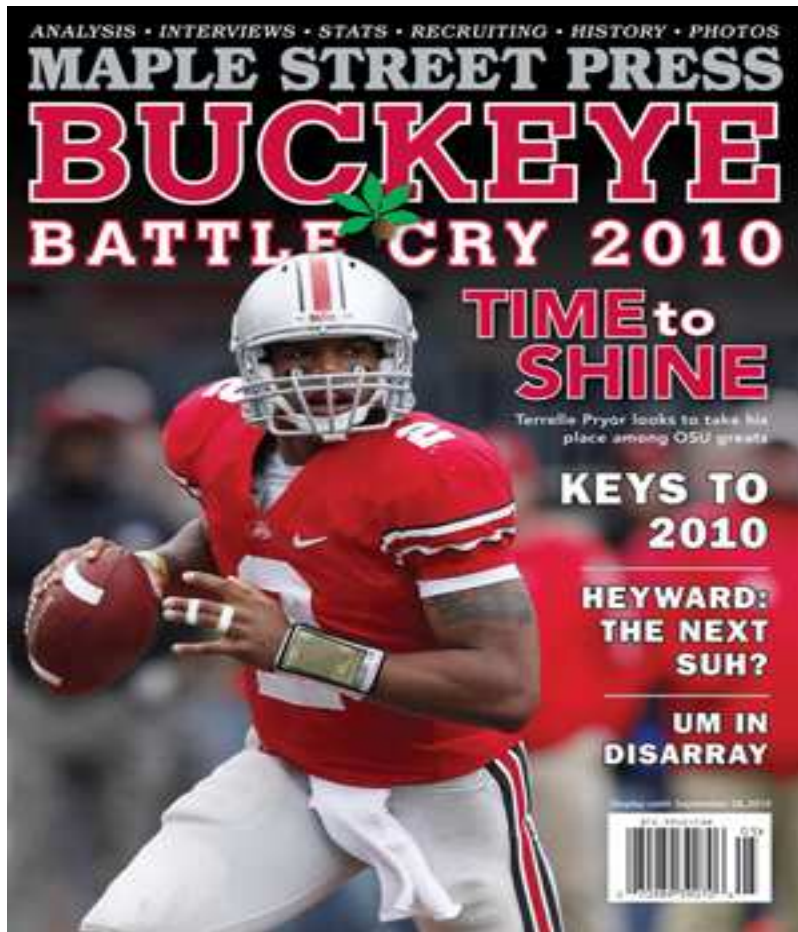
39. Since 2009, the Ohio State media guide has become an online publication, at the website [www.OhioStateBuckeyes.com](http://www.OhioStateBuckeyes.com).

40. Ohio State sells advertising within the pages of its official and/or licensed athletics magazines and programs, both print and electronic.

41. Defendant is not and has not been licensed by Ohio State for any products or services.

#### **Defendant's Infringing Use of the Ohio State Trademarks**

42. Upon information and belief, Defendant is publishing and continues to publish, without permission or license, a magazine devoted exclusively to Ohio State football called "Buckeye Battle Cry" (the "Infringing Publication"), which directly competes against Ohio State's own publications, both printed and electronic. Indeed, the Infringing Publication even claims to provide "All You Need to Know About the 2010 Buckeyes".



\$12.99

## All You Need To Know About the 2010 Buckeyes!

Tired of national preview magazines with only a few pages of generic Ohio State coverage?

- 1 Analyze the 2010 Buckeyes with exclusive in-season scouting reports
- 2 Examine all 12 games on the schedule and see the right instant replay here
- 3 See what trends to expect for the Buckeyes to bring home a national title
- 4 Read about the 25 best of the past years that worked so far OSU program
- 5 Learn about the strategies of Terrelle Pryor and what to expect in 2010
- 6 Get in closer than ever to the inside of the Buckeyes
- 7 Read the coaching traditions and strategies to learn in the Coach of 2010
- 8 Catch up with some recent OSU players on the fly

[www.maplestreetpress.com](http://www.maplestreetpress.com)  
**THE SEASON STARTS HERE**



43. Upon information and belief, Defendant was well aware of Ohio State's historic use, fame and trademark rights in Buckeye, Buckeyes and Buckeye Battle Cry when it adopted "Buckeye Battle Cry" as the title for a publication exclusively about Ohio State football.

44. Not only does "Buckeye Battle Cry" appropriate Ohio State's trademark rights in and title of its famous school fight song as the Infringing Publication's name, the Infringing Publication contains many other uses of other Ohio State trademarks, trade dress and content that is competitive with Ohio State's athletics publications, including:

- a. Repeated use of "Buckeye Battle Cry" and "Buckeyes" throughout the publication;
- b. A detailed article on the members of the Ohio State 2010 football team titled "Primed – The 2010 Ohio State Roster" which includes a listing of each player by name, number, position, height, weight, eligibility and high school;
- c. A detailed article entitled "Know They Enemy – The 2010 Ohio State Schedule";
- d. A chart listing "2009 Buckeye Statistics";
- e. Several in-depth articles on current and former Ohio State football players and coaches;
- f. An article entitled "Graduate School – A look at former Buckeyes in the NFL"; and

- g. Numerous photographs depicting current and former Ohio State football players in competition, wearing uniforms that prominently display the Ohio State Trademarks.

45. Upon information and belief, “Buckeye Battle Cry” is currently being distributed in locations throughout Columbus, including Kroger, CVS, Giant Eagle, Walgreen’s Rite Aid, Walmart, Meijer, Target, Kmart, Barnes & Noble, Borders and Waldenbooks. It is also marketed extensively at Defendant’s website, [www.maplestreetpress.com](http://www.maplestreetpress.com), where it is available for purchase. A copy of the page from Defendant’s website advertising the Infringing Publication is attached hereto as Exhibit N.

46. Defendant’s unauthorized use of the Ohio State Trademarks is commercial in nature and is intended to, and will, directly compete with the lawful publication, distribution and advertising commercial activities of Ohio State and its licensees to the detriment of Ohio State.

**COUNT ONE**  
**INFRINGEMENT OF REGISTERED TRADEMARKS UNDER 15 U.S.C. § 1114**

47. Ohio State incorporates the allegations contained in paragraphs 1 through 46 as if fully restated herein.

48. The commercial use of Ohio State’s registered Ohio State Trademarks in the Infringing Publication by Defendants is a willful infringement of the registered Ohio State Trademarks, and such commercial use was with knowledge of and intended to trade off of Ohio State's prior rights to the Ohio State Trademarks.

49. Defendant’s publication and/or sale of the Infringing Publication that uses the Ohio State Trademarks creates a likelihood of confusion as to the affiliation, connection,

association or sponsorship, affiliation or endorsement by Ohio State in an appreciable number of college athletics consumers and potential consumers.

50. The Ohio State Trademarks, as described herein, are quite strong in the context of a publication providing information exclusively related to Ohio State athletics.

51. The relatedness, or similarity, between materials either published or licensed by Ohio State and the Infringing Publication point to a high likelihood of confusion. Consumers of the information contained in the Infringing Publication are likely to believe that the services, similarly marked, come from the same source, or are somehow connected with or sponsored by Ohio State. The information offered by Defendants is certainly likely to be connected to Ohio State in the mind of a reader of the Infringing Publication.

52. The goodwill of the Ohio State Trademarks is of enormous value, and Ohio State is suffering and will continue to suffer irreparable harm should Defendant's unauthorized use of the Infringing Publication continue.

53. Defendant's use of the Ohio State Trademarks in the Infringing Publication will continue unless enjoined by this Court.

54. Ohio State is entitled to a preliminary and permanent injunction against Defendants, as well as all other remedies available under the Lanham Act, including, but not limited to, compensatory damages, treble damages, disgorgement of profits, and costs and attorney's fees.

**COUNT TWO**  
**UNFAIR COMPETITION AND PASSING OFF UNDER 15 U.S.C. § 1125(a)**

55. Ohio State incorporates the allegations contained in paragraphs 1 through 54 as if fully restated herein.

56. Defendant's publication and/or sale of the Infringing Publication that uses the Ohio State Trademarks, is using the exact title of Ohio State's school fight song as the title of its publication that deals solely with Ohio State football, and uses the same colors, font style and Buckeye leaves that Ohio State uses as its trademarks, will likely cause confusion, mistake or deception on the part of persons viewing Defendant's publication, as to the origin, sponsorship or approval by Ohio State of the "Buckeye Battle Cry" knock-off program in violation of 15 U.S.C. Section 1125(a).

57. Upon information and belief, Defendant's unfair competition and passing off has been willful and deliberate, designed specifically to trade upon the consumer goodwill created and enjoyed by Ohio State for Defendant's profit.

58. Ohio State's consumer goodwill is of enormous value, and Ohio State is suffering and will continue to suffer irreparable harm if Defendant's unfair competition and passing off as to the Infringing Publication is allowed to continue.

59. Defendant's unfair competition and passing off will likely continue unless enjoined by this Court.

60. Ohio State is entitled to a preliminary and permanent injunction against Defendant, as well as all other remedies available under the Lanham Act, including but not limited to compensatory damages, treble damages, disgorgement of profits, and costs and attorney's fees.

**WHEREFORE**, Ohio State requests that the Court order:

1. The issuance of a preliminary injunction, and thereafter a permanent injunction enjoining Defendant and its agents, servants, employees, successors, representatives and assigns, and all others in concert and privity with them from infringing, falsely designating the origin of the Ohio State Trademarks, and

passing off Defendant's products using Ohio State's Trademarks, from using the Ohio State Trademarks in commerce in any way, and from injuring Ohio State's reputation;

2. That Defendants account to Ohio State for their profits, the actual damages suffered by Ohio State as a result Defendant's acts of infringement, unfair competition and passing off, together with interest and costs, and that such damages be trebled because of the willful acts described above, which acts were committed in knowing disregard of Ohio State's known rights;
3. The issuance of a preliminary injunction, and thereafter a permanent injunction enjoining Defendant from using any of Ohio State's Ohio State Trademarks or names or marks deceptively similar to the Ohio State Trademarks in connection with a website or as metatags, directory names, other computer addresses, invisible data, or otherwise engaging in acts or conduct that would cause confusion as to the source, sponsorship or affiliation of Ohio State with Defendant;
4. That Defendant provide the Court and Ohio State with a complete list of all third persons, including, without limitation, retailers, distributors, agents, employees or representatives of Defendants (and the number of such publications distributed to each) to whom Defendants has supplied copies of any print publication that includes any of the Ohio State Trademarks, including but not limited to the Infringing Publications; and that Defendant further take all legal and equitable measures to regain possession of all copies of any publications containing any of the Ohio State Trademarks, including but not limited to the Infringing Publication;
5. That Defendant surrender all copies of print publications that include any of the Ohio State Trademarks, including but not limited to the Infringing Publication, for destruction;
6. That Defendant pays compensatory and treble damages to Ohio State;
7. That Defendant disgorges all profits realized from the sale of print publications that include any of the Ohio State Trademarks, including but not limited to the Infringing Publication, or from the sale of advertising within such publications;
8. That Defendant pays Ohio State's attorneys' fees, together with the costs of this suit; and
9. All other and further relief as may be just and equitable.

Respectfully submitted,

Richard Cordray  
Attorney General of the State of Ohio

/s/ Mary R. True

Joseph R. Dreitler, Trial Attorney (0012441)

Mary R. True (0046880)

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